IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF AUGUST
TWO THOUSAND AND SEVEN

PRESENT
THE HON'BLE MRS JUSTICE T.MEENA KUMARI
and
THE HON'BLE MR JUSTICE G.CHANDRAIAH

WRIT PETITION NO : 19440 of 2006

Between:
The Engineer-in-Chief (R&B) Admn., Errumanzil, Hyderabad.
..... PETITIONER

AND

Sri Y.G.Edward, s/o late Y.G.George,
Electrical, Rural Division, Hyderabad.
.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ order or direction more particularly one in the nature of "writ of certiorari" calling for the records relating to the orders of the Hon'ble A.P. Administrative Tribunal passed in O.A.No.5709/2005, dated 17-10-2005 as being illegal and unreasonable and quash the same and pass such other order or orders as deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner: GP FOR SERVICES II

Counsel for the Respondent: Mr. S. Gopal Rao

The Court made the following :

THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
and
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No. 19440 of 2006

O R D E R: (Per the Hon'ble Smt. Justice T. Meena Kumari)

This writ petition is filed against the order dated 17.10.2005 passed by the A.P. Administrative Tribunal in O.A. No. 5709 of 2005.

The respondent herein filed O.A. No. 5709 of 2005 before the Tribunal seeking to declare the proceedings issued by the petitioner herein vide Memo No. 1582/V.C(2)/2005-1 dated 16.9.2005 as illegal and arbitrary. By the said proceedings, certain charges were framed against the respondent. The Tribunal allowed the said O.A., holding that the appointing authority/disciplinary authority has already jumped to the conclusion that the punishment to be imposed on the applicant should be a major penalty in the charge memo itself. Aggrieved, the petitioner filed this writ petition.

Heard the learned counsel for the parties and perused the material available on record.

The material available on record discloses that the Tribunal has quashed the proceedings impugned in the O.A., without giving any opportunity to the petitioner to defend or to file any counter affidavit. Further, it is the contention of the learned Government Pleader for Services –II that charges were framed against the respondent – applicant and therefore the case is only at the initial stage and as such the facts of the decision on which the Tribunal relied

while passing the impugned order are totally different from the facts of the case on hand and therefore the petitioner is fully entitled to put-forth his defence.

Having regard to the facts and circumstances, we find force in the contention of the learned Government Pleader. As the respondent – applicant filed O.A. against framing of charges and the matter is at the initial stage and the petitioner herein was not afforded with any opportunity, more particularly, when the case of the petitioner is that the decision of the High Court in M.A. Narayana Setty v. Divisional Manager & Disciplinary Authority LIC of India (1990 (1) APLJ 222) will not apply to the present facts, we set aside the impugned order dated 17.10.2005 passed by the Tribunal and remand the mater to the Tribunal with a direction that the petitioner shall file counter affidavit before the Tribunal within four weeks from today and the learned Government Pleader for Services-II shall ensure that his counterpart before the Tribunal filed counter accordingly and the O.A. shall be disposed of within a period of four weeks from the date of filing the counter.

The writ petition is allowed and remanded with the above directions.

T. MEENA KUMARI, J.

G. CHANDRAIAH, J.

Date: 14-08-2007.

MVB.